

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

LAWRENCE MICKEY,)	No. ED95110
)	
Respondent,)	
)	Appeal from the Circuit Court of
vs.)	the City of St. Louis
)	
BNSF RAILWAY COMPANY,)	
)	Honorable John J. Riley
)	
Appellant.)	Filed: November 29, 2011

BNSF Railway Company (“BNSF”) appeals the trial court’s judgment entered upon a jury verdict in favor of Lawrence Mickey on his petition for negligence pursuant to the Federal Employers’ Liability Act (“FELA”).

AFFIRMED.

DIVISION FOUR HOLDS:

- (1) The trial court did not abuse its discretion in refusing to submit BNSF’s proposed instructions concerning the statute of limitations.
- (2) The trial court did not abuse its discretion in refusing to submit BNSF’s proposed instructions seeking apportionment of damages between preexisting conditions and aggravation of the injuries.
- (3) The trial court did not err, plainly or otherwise, in refusing withdrawal instructions concerning evidence of damages from prior injuries.
- (4) The trial court did not abuse its discretion in refusing BNSF’s proposed instruction submitting the issue of whether BNSF’s negligence was the proximate cause of Mickey’s injuries.
- (5) The trial court did not abuse its discretion in excluding evidence of the settlement of Mickey’s prior claims against BNSF.

Opinion by: Robert M. Clayton III, J.
Patricia L. Cohen, P.J. and Mary K. Hoff, J., concur.

Attorney for Appellant: Thomas B. Weaver

Attorney for Respondent: Roger C. Denton

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
SHOULD NOT BE QUOTED OR CITED.**